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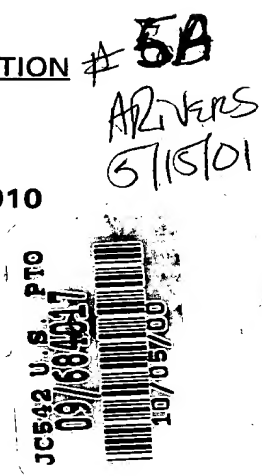
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application )
Inventor(s): James F. Zucherman )
Ken Y. Hsu )
T. Wade Fallin )
Henry A. Klyce )
SC/Serial No.: Unknown )
Filed: Herewith )
Title: SPINE DISTRACTION IMPLANT AND METHOD )

PATENT APPLICATION

Customer No. 23910



CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 C.F.R. §1.10

"Express Mail" mailing label number:EL622698449US
Date of Mailing: October 5, 2000

I hereby certify that this correspondence is being deposited with the United States Postal Service, utilizing the "Express Mail Post Office to Addressee" service addressed to Assistant Commissioner for Patents, Washington, DC 20231 and mailed on the above Date of Mailing with the above "Express Mail" mailing label number.

Matthew A. Mahling (Signature)
Matthew A. Mahling
Signature Date: October 5, 2000

CONTINUATION APPLICATION TRANSMITTAL LETTER
UNDER 37 C.F.R. §1.53(b)(1)

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

Transmitted herewith for filing as a continuation application under the continuing application procedure of 37 C.F.R. §1.53(b)(1) is a patent application identified as follows:

Title: SPINE DISTRACTION IMPLANT AND METHOD

Inventor(s): James F. Zucherman, Ken Y. Hsu, T. Wade Fallin and Henry A. Klyce

No. of Pages in Specification: 54, No. of Claims: 24.

No. of Sheets of Drawings: 37; Formal: checked.

The PTO did not receive the following listed item(s) Specification

**Identification of Prior Complete Application**

SC/Serial No.: 09/360,955

Art Unit: 3731

Filed: July 27, 1999

Examiner: Reip, D.

Title: SPINE DISTRACTION IMPLANT AND METHOD

Inventor(s): James F. Zucherman, Ken Y. Hsu, T. Wade Fallin, Henry A. Klyce

**Delete the Following Inventor(s) for This Application: (none)**

**Declaration**

☒

A copy of the Declaration (signed by all inventors) from the Prior Complete Application is submitted herewith.

**Amendments**

☒

Please CANCEL in this application original claims 2-89 of the prior complete application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

☒

Please AMEND the specification by inserting before the first line of the application: "This application is a continuation of Serial No. 09/360,955, filed July 27, 1999, which is a divisional of Serial No. 09/018,479, filed February 5, 1998, now U.S. Patent No. 6,074,390, which is a divisional of Serial No. 08/778,093, filed 1/2/97 now U.S. Patent No. 5,836,948 issued November 17, 1998."

☒

A preliminary amendment is enclosed. Please enter the preliminary amendment before calculating the application filing fee. (Claims added must be consecutively numbered beginning with next number after highest number in prior complete application.)

**Petition for Extension of Time to Respond**

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No extension of time is required for the prior complete application.

☐

Pursuant to 37 C.F.R. §1.136(a), enclosed is a petition for an extension of time for the prior complete application, up to and including today, for responding to the Office action together with the fee set by 37 C.F.R. §1.17.

**Power of Attorney**

☒

A power of attorney appears in the prior complete application.

☐

A new power of attorney is submitted herewith.

**Assignment**

☒ \_\_\_\_\_

The prior application is assigned of record to:  
St. Francis Medical Technologies, Inc.

\_\_\_\_\_

An assignment of the invention to: \_\_\_\_\_ is submitted herewith,  
together with an ASSIGNMENT RECORDATION FORM COVER SHEET  
and recordal fee of \$40.00.

**Claim of Priority**

\_\_\_\_\_

Priority of foreign application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_,  
in \_\_\_\_\_ is claimed under 35 U.S.C. §1.119.

\_\_\_\_\_

The certified copy was filed in prior U.S. application Serial No. \_\_\_\_\_,  
filed \_\_\_\_\_.

**Small Entity Statement**

\_\_\_\_\_

Statement(s) claiming small entity status is (are) submitted herewith.

☒ \_\_\_\_\_

Statement(s) claiming small entity status was (were) filed in the parent  
application Serial No. 08/778,093, (now U.S. Patent No. 5,836,948  
issued on November 17, 1998) and its benefit under 37 C.F.R. §1.28(a)  
is hereby claimed.

**Also Enclosed Are:**

☒ \_\_\_\_\_

Copies of Information Disclosure Statements under 37 C.F.R. §1.56 filed in the  
prior case are enclosed herewith.

☒ \_\_\_\_\_

Revised drawing sheets 12 and 17 for Figs. 21, 22, and 37.

[illegible]

No. Filed	No. Extra	Rate Small Entity/ Other Than Small Entity		
Basic Fee		\$355.00		
		\$710.00	=	\$355.00
Total Claims	<u>24</u> - 20 = <u>4</u>	\$ 9.00		
	X	\$ 18.00	=	\$ 36.00
Independent Claims	<u>15</u> - 3 = <u>12</u>	\$ 40.00		
	X	\$ 80.00	=	\$480.00
First Presentation of Multiple Dependent Claim(s)	_____	\$135.00		
		\$270.00	=	\$871.00

\* If the difference is less than zero, enter "0".  
\* \* Count claims after any amendment.

**The total fee associated with this communication is calculated as follows:**

X A check in the amount of the TOTAL FEE DUE is enclosed.

X The Commissioner is hereby authorized to charge underpayment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 06-1325. A **duplicate** copy of this CONTINUATION OR DIVISIONAL APPLICATION TRANSMITTAL LETTER UNDER 37 C.F.R. §1.53(b)(1) form is enclosed.

**Correspondence Address**

All correspondence should be addressed as follows:

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Telephone (415) 362-3800

Direct all telephone calls to the undersigned attorney at (415) 362-3800.

Respectfully submitted,

Date: 10/5/00

By: 

Sheldon R. Meyer  
Reg. No. 27,660

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